

## Message Text

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12

ACTION DLOS-05

INFO OCT-01 EUR-12 IO-10 ISO-00 FEA-01 ACDA-05 AGR-05

AID-05 CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 OFA-01

COME-00 DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05 FMC-01

H-02 INR-07 INT-05 JUSE-00 L-02 NSAE-00 NSC-05 NSF-01

OES-03 OMB-01 PA-01 PM-03 PRS-01 SP-02 SS-15 USIA-06

OIC-02 /118 W

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R 272210Z MRA 75

FM USMISSION GENEVA

TO SECSTATE WASHDC 1730

AMEMBASSY MOSCOW

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E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS: ENVIRONMENTAL ASSESSMENT ARTICLE

FROM USDEL LOS

1. USDEL LOS HAS PROPOSED DRAFT ARTICLE CONCERNING ENVIRONMENTAL ASSESSMENTS. PROPOSAL HAS BEEN RECEIVED FAVORABLY BY MIX OF DC AND LDC DELEGATIONS WHICH HAVE BEEN INFORMALLY CONTACTED. SOVIETS, HOWEVER, HAVE EXPRESSED RELUCTANCE TO ACCEPT A CONCEPT WHICH THEY CHARACTERIZE AS ALIEN TO SOVIET WAY OF DOING BUSINESS.

2. U.S. TEAM OF MOORE, COOK, AND YOUNG MET MARCH 27 WITH FELIKS KOVALEV OF SOVIET DEL TO DISCUSS PROPOSAL. AFTER MAKING SOME CHANGES TO ACCOMMODATE HIS CONCERNS, U.S. DRAFT NOW READS AS FOLLOWS. QUOTE: WITH RESPECT TO PROPOSED ACTIVITIES UNDER THEIR JURISDICTION OR CONTROL WHICH MAY REAS-

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ONABLY BE EXPECTED TO CREATE A RISK OF SIGNIFICANT POLLUTION OF THE MARINE ENVIRONMENT, STATES SHALL: (A) ENDEAVOR TO PREPARE ASSESSMENTS OF THE POTENTIAL EFFECTS ON THE MARINE ENVIRONMENT OF SUCH ACTIVITIES; (B) COMMUNICATE ENVIRONMENTAL ASSESSMENTS TO THE COMPETENT INTERNATIONAL ORGANIZATIONS AND TO OTHER STATES WHOSE INTERESTS MAY BE AFFECTED BY SUCH ACTIVITIES; (C) UPON REQUEST, CONSULT WITH OTHER STATES CONCERNING THE CONTENTS OF ENVIRONMENTAL ASSESSMENTS; (D) PROVIDE DIRECTLY OR THROUGH COMPETENT INTERNATIONAL ORGANIZATIONS, APPROPRIATE ASSISTANCE IN PARTICULAR TO DEVELOPING COUNTRIES CONCERNING THE PREPARATION OF ENVIRONMENTAL ASSESSMENTS. UNQUOTE.

3. KOVALEV STATED THAT HE PERSONALLY VIEWS PROPOSAL FAVORABLY, BUT THAT HE HAS NO INSTRUCTIONS ON ISSUE AND MUST CONSULT MOSCOW. HE INDICATED THAT PRIMARY OBSTACLE MAY BE FACT THAT ENVIRONMENTAL ASSESSMENT IS UNKNOWN IN SOVIET SYSTEM. U.S. TEAM STRESSED THAT PROPOSED OBLIGATION IS TO QUOTE ENDEAVOR UNQUOTE TO PREPARE ASSESSMENTS AND THAT BURDENSOME PROCEDURAL OBLIGATIONS ARE THEREFORE NOT ENTAILED. USDEL FURTHER NOTED THRESHOLD OF QUOTE RISK OF SIGNIFICANT POLLUTION UNQUOTE AND LIMITATION TO EFFECTS ON MARINE ENVIRONMENT (THUS EXCLUDING SENSITIVE TRANSFRONTIER PROBLEMS).

4. USDEL UNDERSTANDS THAT ENVIRONMENTAL ASSESSMENT HAS BEEN SUBJECT OF DISCUSSIONS PURSUANT TO U.S. -U.S.S.R. ENVIRONMENTAL AGREEMENT LEGAL PROJECT. SUBJECT TO DEPARTMENT'S CONCURRENCE, DEL SUGGESTS EMBASSY MOSCOW CONTACT PARTICIPANTS ON SOVIET SIDE, INCLUDING KOLBASOV OF INSTITUTE OF STATE AND LAW, IF IT BELIEVES THAT AN APPROACH WOULD BE APPROPRIATE AND MIGHT RESULT IN USEFUL INFLUENCE ON SOVIET DECISION. DEL ALSO REQUESTS DEPARTMENT TO CABLE IT AND MOSCOW PORTIONS OF TEXTS OF ANY AGREEMENTS OR COMMUNIQUE OF U.S. USSR ENVIRONMENTAL AGREEMENT MEETINGS WHICH ADDRESS ENVIRONMENTAL ASSESSMENT ISSUE. USDEL WILL INFORM KOVALEV THAT IT HAS ASKED STATE DEPT TO FURNISH SUCH INFORMATION TO APPROPRIATE OFFICIALS IN MOSCOW.

5. IN APPROACHING SOVIETS, EMBASSY SHOULD CONSIDER LIMITED OFFICIAL USE

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EMPHASIZING PROPOSAL'S LIMITATIONS AS NOTED PARA 3 ABOVE. OTHER ARGUMENTS COULD INCLUDE FACT THAT ENVIRONMENTAL ASSESSMENT IS IMPORTANT COMPONENT OF SOUND PLANNING PROCESS AND A NECESSARY PREREQUISITE TO FULFILLING A STATE'S GENERAL OBLIGATION UNDER LOS TREATY TO ENSURE THAT ACTIVITIES UNDER ITS JURISDICTION AND CONTROL DO NOT POLLUTE MARINE ENVIRONMENT. EMBASSY COULD ALSO POINT OUT

INTERNATIONAL COOPERATIVE ASPECTS OF CONSULTATION OBLIGATION  
IN SUBPARAGRAPH (C) OF PROPOSAL.

6. SUGGEST DEPARTMENT CONSULT JOHN BUSTERUD, MEMBER CEQ  
AND CHAIRMAN U.S. SIDE OF LEGAL PROJECT OF U.S. U.S.S.R.  
ENVIRONMENTAL AGREEMENT.

7. FOR OTHO ESKIN, D/LOS: PLEASE CLEAR OUTGOING WITH DOD,  
DEL BELIEVES SUBPARAGRAPHS (B) OF PROPOSAL HAS SUFFICIENT  
FLEXIBILITY SO AS NOT TO REQUIRE DISCLOSURE OF  
CLASSIFIED IMPACT STATEMENTS.

8. THIRD COMMITTEE WG MAY REACH U.S. PROPOSAL BY 4 APRIL. DALE

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\*\*\* Current Handling Restrictions \*\*\* n/a

\*\*\* Current Classification \*\*\* LIMITED OFFICIAL USE

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